



HOUSE OF REPRESENTATIVES
Article II, Section 12 Ad Hoc Select Committee
Nashville, Tennessee

April 6, 2016

M E M O R A N D U M

TO: Honorable Beth Harwell, Speaker of the House of Representatives

FROM: Article II, Section 12 Ad Hoc Select Committee
Deputy Speaker Steve McDaniel, Chair *SM*

SUBJECT: Status Report and Interim Recommendations

I. STATUS REPORT

On February 4, 2016, the Article II, Section 12 Ad Hoc Committee was appointed for the purpose of determining whether allegations concerning Representative Jeremy Durham justify expulsion from the House of Representatives. On February 8, 2016, the Committee designated the Attorney General and Reporter to serve as legal counsel to the Committee for the purpose of investigating the allegations of disorderly and inappropriate behavior and misconduct by Representative Durham. The Committee requested the Attorney General to conduct a full, fair, and thorough investigation and, upon conclusion, prepare a report for the Committee.

The Attorney General's investigation is on-going.

By letter dated April 5, 2016, the Attorney General informed the Committee that witnesses have reported a pattern of conduct which has made them uncomfortable in the workplace. As an employer, the Tennessee House of Representatives has certain responsibilities to prevent continuation of the conduct described within the Attorney General's letter. It is with this responsibility in mind that the Committee waives confidentiality of the attached letter and makes the recommendations included herein. The Committee recognizes that Representative Durham is not an employee but is an elected official representing the citizens of the 65th District and the Committee's recommendations are made in consideration of this distinction.

The Committee's decision to recommend these interim measures should in no way imply that the Committee has made any conclusions regarding the allegations against Representative Durham and are made solely for the protection of all parties concerned until the conclusion of the investigation. As this is a continuing, active investigation, no further details will be provided beyond this report and attached letter.

II. INTERIM RECOMMENDATIONS

Based on the Attorney General's letter dated April 5, 2016, the Article II, Section 12 Ad Hoc Select Committee makes the following interim recommendations for your consideration:

1. Representative Jeremy Durham should be reassigned from the War Memorial Building to an appropriate location on the ground floor of the Rachel Jackson Building.
2. Representative Jeremy Durham's access to the Legislative Plaza, War Memorial Building, 7th and 8th floors of the Rachel Jackson Building, and 2nd floor of the State Capitol Building should be limited to attendance at committee meetings, floor sessions, and other meetings concerning official legislative business.
3. Representative Jeremy Durham should have no contact with legislative staff or interns, other than his assigned legislative assistant, that is not directly related to official legislative business. If official legislative business necessitates in-person contact with legislative staff outside of committee meetings and floor sessions, all appointments for meetings should be arranged through his assigned legislative assistant and such meetings should include at least two staff members.

III. CONCLUSION

These measures are intended to ensure that the alleged conduct does not continue while allowing Representative Durham to continue to represent the interests of his constituents.

The Ad Hoc Committee will continue to monitor the Attorney General's investigation. Upon conclusion of the investigation, the Committee will take further action as deemed necessary.

Office of the Attorney General



HERBERT H. SLATERY III
ATTORNEY GENERAL AND REPORTER

P.O. BOX 20207, NASHVILLE, TN 37202
TELEPHONE (615)741-3491
FACSIMILE (615)741-2009

April 5, 2016

PRIVILEGED AND CONFIDENTIAL

Via hand delivery

Ad Hoc Select Committee
House of Representatives 109th General Assembly
Rep. Steve McDaniel, Chairman
18 Legislative Plaza
Nashville, TN 37243

Re: House Ad Hoc Select Committee, 109th General Assembly

Dear Chairman McDaniel:

As you are aware, a February 8, 2016, resolution of the House Ad Hoc Select Committee of the 109th General Assembly asked this Office to investigate "allegations of disorderly and inappropriate behavior and misconduct" made against Representative Jeremy Durham (R-District 65). Thus far, this Office has interviewed 34 individuals, including current or former legislative members, lobbyists, staff, and interns. The investigation is ongoing as of this date. Information obtained during the investigation reveals a pattern of conduct by Representative Durham directed toward a number of women who either currently work for, or formerly worked with, the Legislature. Some of the women interviewed stated Representative Durham's behavior created an environment which has made them uncomfortable in the work place. Representative Durham's access to, interaction with, and behavior toward these women arose from his position as an elected representative and legislative leader. A number of the women who continue to work for or with the Legislature avoid or refuse to be alone with Representative Durham, a situation which has affected their ability to perform their jobs.

Information obtained from the women who related incidents involving Representative Durham indicates: (1) Representative Durham occupied a superior position of power to the women; (2) he obtained personal contact information from the women under the guise of legislative business or another legitimate reason; (3) he initiated contact about non-legislative matters and attempted to meet the women alone; (4) he usually involved alcohol in his interaction

with the women; and (5) he made inappropriate comments of a sexual nature or engaged in inappropriate physical contact with some women.

With few exceptions, the women who related incidents felt they could not report Representative Durham's behavior because nothing could be done and they did not want to lose their jobs or be considered "untrustworthy" by employers, clients or legislators. Most are fearful and extremely anxious about having their identities revealed publicly. Based upon the information gathered thus far, Representative Durham's alleged behavior may pose a continuing risk to unsuspecting women who are employed by or interact with the Legislature.

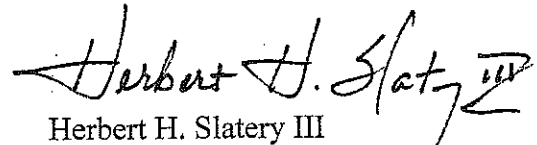
Sexual harassment ranges from verbal harassment to unwelcome physical contact and differs in frequency and severity. Common elements are that the conduct is unwelcome, is gender based or sexual in nature, and is offensive and objectionable to both the victim and a reasonable person. A "hostile work environment" refers to situations in which hostile, intimidating, or offensive conduct is sufficiently severe and pervasive to unreasonably interfere with an employee's work performance.

An employer should promptly respond to allegations of sexual harassment and should exercise due diligence and reasonable care to prevent, respond to, and correct the conduct. Thus, after a report of sexual harassment, an employer may impose reasonable and appropriate interim measures designed to prevent the reported conduct. An employer may take action even though the investigation is not complete and whether or not the conduct reported may rise to the level of sexual harassment considered unlawful under Federal or State law.

Under the circumstances here, we believe the Legislature as an employer should consider whether interim measures are needed to prevent future inappropriate conduct. These measures must not punish a complaining party and should also be mindful that the investigation is continuing and no final determination has been made with regard to Representative Durham. The Equal Employment Opportunity Commission suggests such intermediate measures as scheduling changes to avoid contact between the parties, transfer of the alleged harasser, and placing the alleged harasser on non-disciplinary leave with pay pending the conclusion of an investigation. Our recommendation is consistent with acceptable management practice after an allegation of sexual harassment and is sanctioned by the Equal Employment Opportunity Commission.

Please feel free to contact our Office should you have any additional questions or concerns.

Sincerely,

A handwritten signature in dark ink, reading "Herbert H. Slatery III". The signature is fluid and cursive, with a large, stylized "H" and "S".

Herbert H. Slatery III
Attorney General and Reporter